

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL MEMORANDUM**

**HB 1423 – SB 1627**

February 16, 2014

**SUMMARY OF ORIGINAL BILL:** Separates the state trust company formation process from the process for chartering a new state bank and addresses statutory requirements regarding state trust company governance and operations. Reduces the current three-part application process to a two-part process by removing the requirement applicable to bank formations of filing a notice of intention to organize. Authorizes any number of persons to act as incorporators or organizers of a state trust company. Explicitly specifies what information must be included in applications for charter. Authorizes the Commissioner of the Department of Financial Institutions to conduct criminal history background checks and international background investigations of trust company incorporators, proposed members and officers, at the expense of the applicant. Increases, from 20 days to 30 days of filing the application for charter, the timeframe for the Commissioner to notify the applicant whether the application is complete. Reduces, from six months to 90 days after the filing of a complete application for charter, the timeframe for the Commissioner to investigate and examine the application. Authorizes such timeframe to be extended by the Commissioner. Establishes a minimum capital requirement of \$500,000 for a state trust company to be organized. Authorizes the Commissioner to prescribe a capital structure for a state trust company that is deemed to be adequate for it to operate in a safe and sound manner. Removes the current requirement that all members of the board of directors of a trust company must be United States (U.S.) citizens and that majority of them must be residents of Tennessee, and instead requires that the majority of board members must be U.S. citizens. Removes the current term limitation on board members. Requires the Commissioner to examine a state trust company at least once every 18 months, rather than once each year, and authorizes the Commissioner to extend this examination cycle up to an additional 18 months. Specifies provisions of the Tennessee Banking Act that are inapplicable to trust companies, where current law provides that the entire Act is applicable to such companies unless the Commissioner determines otherwise.

**FISCAL IMPACT OF ORIGINAL BILL:**

NOT SIGNIFICANT

**IMPACT TO COMMERCE OF ORIGINAL BILL:**

Other Impact – According to the Department of Financial Institutions, streamlining and clarifying the Tennessee Banking Act with respect to the formation and operations of state trust companies, as proposed by this bill, could result in an increased number of legal, accounting, and trust and investment management jobs. However, the extent of any such increase cannot be determined with reasonable certainty due to many unknown factors.

**HB 1423 – SB 1627**

**SUMMARY OF AMENDMENT (012381):** Requires, rather than authorizes, the Commissioner to conduct criminal history background checks and international background investigations of trust company incorporators, proposed members and officers, at the expense of the applicant.

## **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Unchanged from the original fiscal note.**

Assumptions for the bill as amended:

- According to the Department of Financial Institutions, the proposed revisions to the state trust company formation process and the administrative and regulatory statutes governing state trust companies will not result in a significant fiscal impact to the Department.
- According to the Secretary of State, any increase in state expenditures to process new state trust company organizational documents will be not significant and can be accommodated within existing resources without an increased appropriation or a reduced reversion.

## **IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:**

**Unchanged from the original fiscal note.**

Assumptions for the bill as amended:

- According to the Department of Financial Institutions, the regulatory framework in the Tennessee Banking Act within which trust companies operate has not been updated or modernized since 1999.
- According to the Department, streamlining and clarifying the Act with respect to the formation and operations of state trust companies, as proposed by this bill as amended, could result in an increased number of legal, accounting, trust and investment management jobs. However, the extent of any such increase cannot be determined with reasonable certainty due to many unknown factors, such as whether any new state trust companies will be created as a result of this bill, the timing of any such creation, and the hiring patterns of new state trust companies.
- Any decrease in business expenditures for state trust companies currently located in Tennessee is estimated to be not significant.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

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